



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

59

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/781,201	02/13/2001	Roger D. Wood	06683.0002.NPUS00	7037

7590 03/30/2005

Derek J. Jardieu  
HOWREY & SIMON  
1299 Pennsylvania Avenue, N.W.  
Box No.34  
Washington, DC 20004-2402

EXAMINER
----------

GYORFI, THOMAS A

ART UNIT	PAPER NUMBER
----------	--------------

2135

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/781,201

Applicant(s)

WOOD, ROGER D.

Examiner

Tom Gyorf

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 July 2004 and 27 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-30 remain for examination. The correspondences filed on 7/19/04 and 9/27/04 did not add, amend, or cancel any claims.

### ***Response to Arguments***

2. Applicant's arguments, see the Response to August 24, 2004 PTO Correspondence, filed 9/27/04, with respect to the matter of the Advisory Action issued on 8/24/04 being improper, have been fully considered and are persuasive. The Finality of the Office Action mailed 3/18/04 is withdrawn.

3. Applicant's arguments filed 7/19/04 have been fully considered but they are not persuasive.

Applicant argues: *"that Freeman does not expressly disclose active display technology. In fact, one skilled in the art would understand from the disclosure of Freeman, to the contrary, that Freeman '183 relates to passive display technology."* Examiner agrees that Freeman discloses passive technology. However, Examiner contends that Freeman also discloses the use of active technology. Specifically, Freeman discloses that the display elements include elements such as suspended article displays and field emission displays, which are construed to be active displays.

Applicant argues: *"The Examiner then, without support, asserts that 'Freeman does disclose that the card is readable by ATM machines.' Applicant disagrees. In this regard, Applicant is aware of 1) the reference at column 2, line 21 of Freeman 183 that merely suggests the existence of 'ATM machines' and 2) the discussion at column 6, lines 59-65 that relates to a flexibility of the card of Freeman. These*

*disclosures, however, provide no disclosure nor suggestion of the feature of a card of approximately '85 millimeters (mm) in length, 55mm in width and 1 mm thick' as recited in claim 3. In fact, many LCD displays of the type disclosed in Freeman 183 are wholly unsuitable for such an application."* This argument is deemed moot in view of the new grounds of rejection for Claim 3 below.

Applicant further argues: *"Freeman does not suggest the claim requirement of a phone ordering interface. . . 'or said phone ordering interface communicates authentication data. . . ' Moreover, disclosure of a modem would teach away from a feature of ordering over the phone," as in the Examiner's description of a reason to incorporate such a feature. A phone user would not communicate with a modem. Thus, the Examiner has not demonstrated that such a feature is taught in the art, much less a motivation to incorporate such a feature into the teachings of Freeman."* Examiner disagrees.

Freeman explicitly states that a telephone has the capability of reading and using the information stored on the card (col. 2, lines 15-25). Freeman further discloses that his invention has particular application to the purchase of electronic tickets (col. 2, lines 1-10; col. 5, lines 55-65). Freeman further discloses receiving information to authenticate and authorize a user (col. 5, lines 55-65; col. 8, lines 55-60). The network where the information is transmitted includes the Internet, a public switched network being a part of the Internet (col. 5, lines 25-35).

Applicant further argues: *"no statement of motivation at all for claim 16), the Examiner's only statement of motivation - that one of ordinary skill in the art would have been motivated to (modify the teachings of Freeman because it would the [sic system to verify the identity of the person using the card - relates to discussion in Gray, not in Freeman. Gray, col. 2, 11. 40-50. Freeman on the other hand, describes an invention that enables consumers to receive ticketing information that can admit them to a venue (and) guide them to their seats. . ."* Freeman 183, col. 2, 11. 30-32. As in the present invention,

Art Unit: 2135

*however, such a feature typically involves using a ticketing device as a bearer instrument, and does not require any personal identification of the holder of the instrument. Thus, the Examiner has pointed to no motivation to incorporate the teachings of Gray with the teachings of Freeman 183."*

Examiner disagrees with applicant. Freeman discloses that during purchasing of tickets that the user must send authorization information. Examiner believes that the authorization must include authentication information. Examiner maintains that the motivation for combining the references is found during the purchasing procedure of Freeman (col. 8, lines 55-60).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-2, 5, 7-14, 17-21, 24-25, and 27-30 are rejected under 35 U.S.C. 102(a) as being anticipated by Freeman et al. (U.S. Patent 6,068,183).

Referring to Claim 1:

Freeman discloses a portable authentication device, comprising: a body (Fig 1A; col. 2, lines 50-60); a contact area disposed in said body (col. 2, lines 60-65); an identification portion disposed in said body (col. 2, lines 59-62); a display area disposed in said body and including an active display enabled for bistable performance (col. 3, lines 1-10; col. 6, lines 10-30); and a processor, disposed in said body, for providing data to said active display (col. 3, lines 30-40).

Referring to Claim 17:

Freeman discloses an authentication system, comprising: a portable authentication device having an active display enabled for bistable performance (col. 3, lines 1-10; col. 6, lines 10-30); a database server (col. 4, lines 15-30, 40-50); and an authentication device interface, coupling said portable authentication device and said database server (Fig 3).

Referring to Claim 23:

Freeman discloses a method for authenticating a patron having an authentication device, comprising: providing an authentication device having; an active display enabled for bistable performance (col. 6, lines 10-30); updating a database server with authentication data associated with a venue (col. 5, lines 10-15, 50-65); displaying display data corresponding to the authentication data on the authentication device (col. 5, lines 60-65); establishing a communication between the authentication device and the database server; and deciding whether to grant the patron access to the venue based on the communication (col. 2, lines 1-10; col. 5, lines 40-65).

Referring to Claim 2:

Freeman discloses the limitations of Claim 1 above. Freeman further discloses a card approximating a size and shape of a standard credit card (col. 2, lines 15-25; col. 6, lines 55-65).

Referring to Claim 5:

Freeman discloses the limitations of Claim 1 above. Freeman further discloses said contact area further comprising: a contact enabled for receiving externally-supplied power (col. 3, lines 30-35; col. 6, lines 45-55).

Referring to Claim 7:

Freeman discloses the limitations of Claim 1 above. Freeman further discloses said active display comprising: a variable display (col. 6, lines 10-30); wherein said variable display is enabled for bistable display of authentication information (col. 2, lines 1-10).

Referring to Claim 8:

Freeman discloses the limitations of Claim 1 above. Freeman further discloses a machine-readable portion, coupled to said body, enabled for storage of machine--readable data (Fig 7; col. 15, lines 15-23).

Referring to Claim 9:

Freeman discloses the limitations of Claim 8 above. Freeman further discloses said machine-readable portion comprises at least one of a magnetic strip and an optically-readable portion (Fig 1B; col. 2, lines 60-67; col. 5, lines 15-23).

Referring to Claim 10:

Freeman discloses the limitations of Claim 1 above. Freeman further discloses a communication portion, coupled to said. body, for enabling said authentication device for wireless communication between said authentication device and an authentication device interface (col. 2, lines 65-68).



Referring to Claim 11:

Freeman discloses the limitations of Claim 10 above. Freeman further discloses said communication portion comprising: a wireless transmitter/receiver (Fig 5A; col. 2, lines 65-68).

Referring to Claim 12:

Freeman discloses the limitations of Claim 11 above. Freeman further discloses said communication portion further comprising: means for communicating data between said wireless transmitter/receiver and a location external to said authentication device (col. 2, lines 65-68; col. 5, lines 25-45).

Referring to Claim 13:

Freeman discloses the limitations of Claim 12 above. Freeman further discloses said means for communicating comprise an antenna embedded in said body (col. 2, lines 65-68).

Referring to Claim 14:

Freeman discloses the limitations of Claim 1 above. Freeman further discloses a memory portion, disposed in said body, enabled for storing data (col. 3, lines 45-55).

Referring to Claim 18:

Freeman discloses the limitations of Claim 17 above. Freeman further discloses an authentication device reader, coupled to said authentication device data interface, for communicating directly with and identifying said portable authentication device (col. 2, lines 30-35; Fig 3-4; col. 4, lines 15-30; col. 2, lines 1-10).

Referring to Claim 19:

Freeman discloses the limitations of Claim 17 above. Freeman further discloses a public network in communication with each of said portable authentication device, said database server and said authentication device interface (col. 5, lines 50-65; Fig 5A).

Referring to Claim 20:

Freeman discloses the limitations of Claim 17 above. Freeman further discloses a venue portion, coupling said database server and said authentication device data interface; wherein said venue portion communicates authentication data associated with a venue to said authentication device interface upon detection of said authentication device (col. 5, lines 50-65; col. 2, lines 1-10).

Referring to Claim 21:

Freeman discloses the limitations of Claim 17 above. Freeman further discloses a patron portion, coupling said database server and said authentication device interface; wherein said patron portion communicates authentication data associated with a venue

to said database server in response to a request by a patron (col. 5, lines 50-62; Fig 3-5A).

Referring to Claim 24:

Freeman discloses the limitations of Claim 23 above. Freeman further discloses comparing identification data of the authentication device and the authentication data; and granting to the patron access to the venue if the identification data of the authentication device and the authentication data match (col. 2, lines 1-10; col. 5, lines 55-65).

Referring to Claim 25:

Freeman discloses the limitations of Claim 24 above. Freeman further discloses the identification data is identifiable with the patron based on patron data stored in the database server (col. 4, lines 5-35).

Referring to Claim 27:

Freeman discloses the limitations of Claim 23 above. Freeman further discloses said establishing is of a communication link between an authentication device interface located at the venue and the database server (Fig 5A; col. 5, lines 50-65).

Referring to Claim 28:

Freeman discloses the limitations of Claim 23 above. Freeman further discloses receiving a request from the patron for authorization to enter the venue; wherein said updating is in response to the request (col. 2, lines 1-10).

Referring to Claim 29:

Freeman discloses the limitations of Claim 28 above. Freeman further discloses the request is received from a location remote to the database server (Fig 3; col. 5, lines 1-20; col. 5, lines 50-65).

Referring to Claim 30:

Freeman discloses the limitations of Claim 23 above. Freeman further discloses said establishing takes place over a public network (Fig 3-5A; col. 5, lines 40-60).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. (U.S. Patent 6,068,183), and further in view of Haddock et al. (U.S. Patent 4,736,966).

Referring to Claim 3:

Freeman discloses the limitations as discussed in Claim 2 above.

Freeman does not explicitly disclose "said card is approximately 85 millimeters (mm) in length, 55mm in width and 1 mm thick." However, Freeman does disclose that the card is readable by ATM machines. In addition, Haddock teaches that a standard credit card size that permits usage in an ATM machine is 85mm X 55mm (Haddock, col. 3, lines 5-15) X approximately 1mm (col. 1, lines 65-67). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Freeman such that the card is approximately 85 millimeters (mm) in length, 55mm in width and approximately 1mm thick as taught by Haddock. One of ordinary skill in the art would have been motivated to do this because it would allow the card to be used like a regular banking/credit card (Freeman, col. 6, lines 55-65 and Fig. 7).

8. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman as applied to claim 17 above, and further in view of Gebb (U.S. Patent 6,067,532).

Referring to Claim 22:

Freeman discloses the limitations as discussed in Claim 17 above.

Freeman does not explicitly disclose "a phone ordering interface, coupling said database server to a public network; wherein said phone ordering interface communicates authentication data associated with a venue to said database server in response to a request by a patron received via a public switched telephone network (PSTN)" However, Freeman does disclose the use of a public network which uses a modem, a modem being known in the art as a device for converting digital signals into analog signals for use on a telephone network. A user can buy tickets via this network (Fig 5A, col. 5, lines 50-65). In addition, Gebb discloses a phone ordering interface, coupling a database server to a public network (col. 4, lines 35-45) wherein said phone ordering interface communicates authentication data associated with a venue to a database server in response to a request by a patron received through a phone network (col. 6, lines 5-15). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Freeman such that the ticket could be ordered over the phone, in a manner similar to Gebb. One of ordinary skill in the art would have been motivated to do this because it would reduce box-office lines (Freeman, col. 5, lines 55-65).

9. Claims 4, 6, 15-16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman as applied to claims 1-2 and 23 above, and further in view of Gray (U.S. Patent 6,268,788).

Referring to Claim 4:

Freeman discloses the limitations as discussed in Claim 2 above.

Freeman does not explicitly disclose "said portable authentication device is enabled for communication with an authentication device interface, said processor being enabled for processing authentication information received from the authentication device interface."

Gray discloses said portable authentication device is enabled for communication with an authentication device interface (Fig. 12B), said processor being enabled for processing authentication information received from the authentication device interface (col. 15, lines 1-10).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Freeman such that the card can process authentication information as taught by Gray. One of ordinary skill in the art would have been motivated to do this because it would the system to verify the identity of the person using the card (col. 2, lines 40-50).

Referring to Claim 6:

Freeman discloses the limitations as discussed in Claim 1 above.

Freeman does not explicitly disclose "contact area further comprising: a contact enabled for communication of data between said authentication device and an authentication device interface."

Gray discloses contact area further comprising: a contact enabled for communication of data between said authentication device and an authentication device interface (Fig. 8-12).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Freeman such that a contact enabled for communication of data between said authentication device and an authentication device interface. One of ordinary skill in the art would have been motivated to do this because it would the system to verify the identity of the person using the card (col. 2, lines 40-50).

Referring to Claim 15:

Freeman discloses the limitations as discussed in Claim 1 above.

Freeman does not explicitly disclose, "said memory portion stores biometric identification data of a patron."

Gray discloses said memory portion stores biometric identification data of a patron (col. 13, lines 40-45).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the teachings of Freeman such that a memory portion



Art Unit: 2135

stores biometric identification data of a patron. One of ordinary skill in the art would have been motivated to do this because it would the system to verify the identity of the person using the card (col. 2, lines 40-50).

Referring to Claim 16:

Freeman in view of Gray discloses the limitations as discussed in Claim 15 above. Freeman further discloses said memory portion stores data for at least one of display in said active display area, for user authentication, for patron preferences and for system data (col. 3, lines 30-40; 45-55).

Referring to Claim 26:

Freeman discloses the limitations as discussed in Claim 23 above.

Freeman does not explicitly disclose, "verifying an association between the patron and the authentication device prior to said granting."

Gray discloses verifying an association between the patron and the authentication device prior to said granting (col. 13, lines 40-45; col. 15, lines 1-15).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Freeman such that an association between the patron and the authentication device is verified prior to said granting. One of ordinary skill in the art would have been motivated to do this because it would the system to verify the identity of the person using the card (col. 2, lines 40-50).

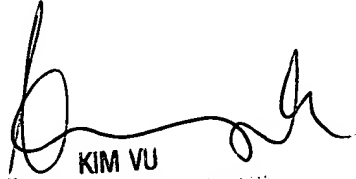
**Conclusion**

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tom Gyorfi whose telephone number is (571) 272-3849. The examiner can normally be reached on 8:00am - 4:30pm Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TAG  
3/24/05

  
KIM VU  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2101